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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,634	11/28/2000	Ramesh Mantha	2664.20	4602
27160	7590	06/30/2005	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			DUONG, DUC T	
525 WEST MONROE STREET			ART UNIT	
CHICAGO, IL 60661-3693			PAPER NUMBER	
			2663	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/722,634

Applicant(s)

MANTHA, RAMESH

Examiner

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 19 and 21 is/are allowed.
6) ☒ Claim(s) 1-5, 8, 15-17, 20 and 22 is/are rejected.
7) ☒ Claim(s) 9-14 and 18 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1,2 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the aggregate" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-5, 8, 15-17, 20, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Holtzman et al (US Patent 6,850,506 B1).

Regarding to claim 1, Holtzman discloses a system for allocating a power budget between at least two different communication channels, one of which comprises a voice channel and the other one of which comprises a data channel, comprising at least two receiving stations being (user #1 and user #2), in the aggregate, configured to receive all of the at least two different communication channels (fig. 1-2 col. 7 lines 7-35) and a transmitting station (base station) for transmitting each of the channels to at least one of the receiving-stations using a portion of the power budget, the portions being allocated by said transmitting-station such that the power budget is substantially consumed (fig. 3 col. 8 lines 15-32).

Regarding to claim 2, Holtzman discloses the transmitting station comprises is a base station and the receiving station comprise subscriber stations (col. 6 lines 43-51).

Regarding to claim 3, Holtzman discloses one of the subscriber stations is configured to receive the one channel, and another of the subscriber stations is configured to receive the other one of the channels (fig. 1-2 col. 7 lines 7-35).

Regarding to claim 4, Hotzman discloses one of the subscriber stations is configured to receive the at least two communication channels (fig. 1-2 col. 7 lines 7-35).

Regarding to claim 5, Holtzman discloses the transmitting station comprises a subscriber station and the receiving station comprises a base station (col. 6 lines 43-51; noted the system is operational in both forward and reverse links, thus both the subscriber station and base station are transmitting and receiving stations).

Regarding to claim 8, Holtzman discloses the allocation of power to the voice channel for a subsequent time period is based on the actual power consumed by the voice channel for a known time period (col. 15 lines 30-34; the allocation power for a subsequent frame is obtained by integrating the power control groups in each frame over a known time for a number of previous frame).

Regarding to claim 15, Holtzman discloses the transmitting station is configured such that a remaining portion of the power budget is allocated to a data channel for a subsequent time period based on the actual amount of power that was not allocated to the voice channel (col.. 8 lines 20-27).

Regarding to claim 16, Holtzman discloses the amount of power (FCH power) that was actually consumed by one of the at least one communication channels during a known time period (previous frame) is allocated by said transmitting station to that communication channel for a future time period (frame k) and the remainder of said the power budget is allocated by said transmitting station to another of the communication channels (fig. 8 col. 15 lines 30-35 and col. 16 lines 23; the supplemental channel SCH read on another communication channel).

Regarding to claim 17, Holtzman discloses a method of allocating a power budget between communication channels, at least one of which is a voice channel

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comprising the steps of predicting power requirements for the at least one voice communication channel during a future time period (fig. 8 col. 15 lines 30-35) and allocating a portion of the power budget to each of the other communication channels based on the prediction (col. 15 lines 55-61).

Regarding to claim 20, Holtzman discloses a system for allocating a power budget between at least two channels comprising a first subscriber station (user #1) operable to receive at least a voice channel (fig. 1 col. 7 lines 20-25); an additional subscriber station (user #2) operable to receive at least a data channel (fig. 2 col. 7 lines 25-27); a base station (BS) for transmitting said the voice channel to said the first subscriber-station using a portion of said the power budget and while transmitting the data channel to said the additional subscriber station using a remainder of said the power budget (fig. 2 col. 8 lines 27-35), said the portion being allocated by said base station based on an actual amount of power consumed during a previous period (col. 15 lines 30-35).

Regarding to claim 22, Holtzman discloses a base station (fig. 6A) comprising a gateway (implicitly shown) for receiving voice packets and data packets from a network (col. 7 lines 20-35); a processing unit for allocating a portion of a power budget for transmitting voice packets during a current time period based on actual power consumed for transmitting voice packets during a previous time period (col. 8 lines 15-25), said the processing unit being configured to allocate a remainder of said the power budget for transmitting data packets during the current time period (col. 8 lines 25-32) ;

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and a transmitter for transmitting said the packets to intended subscriber stations (user #1 and user #2) via a downlink according to said the allocations (col. 7 lines 59-63).

Allowable Subject Matter

6. Claims 9-14 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 19 and 21 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or make obvious the step of or means for **“for a future time period, allocating at least an equivalent amount of power as said the actual power consumption determined at step (iii) to the at least voice channel”**, when the allocating is considered within the specific structure of the method recited in claim 19. The prior art of record fails to teach or make obvious the step of or means for **“a processor connected to the receiver and configured to adjust demodulation and forward error correction rates of packets received over the voice channel and the data channel during successive time periods, the adjusting based on instructions received over the signaling channel that correspond to power allocations made by a base station transmitting the channels”**, when such processor is considered within the specific structure of the device recited in claim 21.

Conclusion

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DD

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RICKY NGO
PRIMARY EXAMINER
9/27/05